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5 Attorneys for Mr. Angel Rios

6 UNITED STATES DISTRICT COURT

7 SOUTHERN DISTRICT OF CALIFORNIA

8 (HONORABLE WILLIAM Q. HAYES)

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

13 ANGEL RIOS,

14 Defendant.

CASE NO. 08cr1811-WQH

DATE: September 2, 2008

TIME: 2:00 p.m.

**NOTICE OF MOTIONS AND MOTIONS
IN LIMINE TO:**

1) EXCLUDE TECS EVIDENCE PROFFERED
BY GOVERNMENT;

2) BAR THE GOVERNMENT FROM
INTRODUCING EVIDENCE OF OTHER
CRIMES, WRONGS, OR ACTS BESIDES TECS;
3) GOVERNMENT SHOULD BE PRECLUDED
FROM INTRODUCING SO-CALLED EXPERT
TESTIMONY IN THIS ALIEN SMUGGLE
CASE;

4) PRECLUDE INTRODUCTION OF "MUG
SHOTS" OF MR. RIOS;

5) JURY SHOULD NOT BE SUBJECTED TO
DETAILS OF THE COMPARTMENT
CONTAINING THE MATERIAL WITNESS,
NOR THE MATERIAL WITNESS' PHYSICAL
AND MEDICAL CONDITIONS.

6) EXCLUDE EVIDENCE OF "NERVOUSNESS"
BECAUSE IT LACKS PROBATIVE VALUE, IS
OVERLY PREJUDICIAL AND LACKS PROPER
FOUNDATION;

7) THE CONFRONTATION CLAUSE
REQUIRES THAT ANY REFERENCE TO
ALIENAGE MUST BE EXCLUDED IF THE
MATERIAL WITNESS DOES NOT TESTIFY
AT TRIAL;

8) COURT SHOULD NOT EXCLUDE
STATEMENTS MADE TO THE MATERIAL
WITNESS BY OTHERS BECAUSE SUCH
STATEMENTS ARE NOT ADMISSIBLE
UNDER FRE 801(d)(2)(E)

9) COURT SHOULD NOT SEND THE
INDICTMENT INTO THE JURY ROOM
DURING DELIBERATIONS;

10) PRECLUDE THE GOVERNMENT FROM

1 USING ANY EVIDENCE WHICH HAS NOT
2 BEEN TURNED OVER TO THE DEFENDANT
3 AT THIS TIME AS VIOLATIVE RULE 16;
11) PRODUCE GRAND JURY TRANSCRIPTS

4 TO: KAREN P. HEWITT, UNITED STATES ATTORNEY, AND
5 PETER MAZZA, ASSISTANT UNITED STATES ATTORNEY

6 **PLEASE TAKE NOTICE** that on September 2, 2008 @ 2:00p.m., or as soon thereafter as counsel
7 may be heard, the defendant, Angel Rios, by and through his counsel, Timothy R. Garrison, and Federal
8 Defenders of San Diego, Inc., will ask this Court to enter an order granting the motions listed below.

9 **MOTIONS**

10 Mr. Rios, the defendant in this case, by and through his attorneys, Timothy R. Garrison, and Federal
11 Defenders of San Diego, Inc., pursuant to the Fourth, Fifth and Sixth Amendments to the United States
12 Constitution, FED. R. CRIM. P. 12, 16 and 26, and all other applicable statutes, case law and local rules, hereby
13 moves this Court for an order to:

- 14 (1) to exclude tecs evidence proffered by government;
15 2) to bar the government from introducing evidence of other crimes, wrongs, or acts besides tecs;
16 3) to precluded the government from introducing so-called expert testimony in this alien smuggle
17 case;
18 4) to preclude introduction of "mug shots" of Mr. Rios;
19 5) the jury should not be subjected to details of the compartment containing the material witness, nor
20 the material witness' physical and medical conditions.
21 6) to exclude evidence of "nervousness" because it lacs probative value, is overly prejudicial and
22 lacks proper foundation;
23 7) to exclude confrontation clause requires that any reference to alienage if the material witness does
24 not testify at trial;
25 8) to not exclude statements made to the material witness by others because such statements are not
26 admissible under fre 801(d)(2)(e)
27 9) to not send the indictment into the jury room during deliberations;
28 10) to preclude the government from using any evidence which has not been turned over to the

1 defendant at this time as violative rule 16;

2 11) to produce grand jury transcripts.

3 These motions are based upon the instant motions and notice of motions, the attached statement of
4 facts and memorandum of points and authorities, and any and all other materials that may come to this Court's
5 attention at the time of the hearing on these motions.

6 Respectfully submitted,

7
8 Dated: August 19, 2008

/s/ Timothy R. Garrison
TIMOTHY R. GARRISON
Federal Defenders of San Diego, Inc.
Attorneys for Mr. Rios

CERTIFICATE OF SERVICE

Counsel for Defendant certifies that the foregoing pleading is true and accurate to the best information and belief, and that a copy of the foregoing document has been caused to be delivered this day upon:

Courtesy Copy Chambers

Copy Assistant U.S. Attorney via ECF NEF

Copy Defendant

Dated: August 19, 2008

/s/ TIMOTHY R. GARRISON

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**STATEMENT OF FACTS AND
MEMORANDUM OF POINTS AND
AUTHORITIES IS HEREBY
INCORPORATED BY REFERENCE TO
DOCKET NO. 26**